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TRANSMITTAL SLIP	DATE 29 July
TO: Comptroller	
ROOM NO.	BUILDING
REMARKS:	
FROM	
ROOM NO. 7B-12	BUILDING

FORM NO. 241 REPLACES FORM 36-8 WHICH MAY BE USED. (47)

STAT

STAT

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ROUTING AND TRANSMITTAL SLIP Date: 30 July 1982

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Comptroller		8/2
2. C/AG		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
	Justify	

[redacted] STAT

The last paragraph of the attached indicates that you are aware of this issue and I would assume that if everything goes well we will have the benefit of the 2% flexibility for 1983. However, this raises the question as to what is happening for 1982. As I am sure you are aware, we are counting on congressional action to legitimitize the fact that we currently are over our FY 1982 year-end ceiling and have every expectation of remaining over (by up to 250) at year-end.

[redacted] STAT

This comment is for FY 1983 & FY 1982. Subsequent items is still an open question

[redacted] STAT

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
C/AG	Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

☆ GPO : 1981 O - 341-529 (120)

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OGC 82-07125
29 July 1982

MEMORANDUM FOR THE RECORD

FROM: [redacted] STAT
Chief, Legislation Division, OGC

SUBJECT: Conversation with [redacted], STAT
Office of General Counsel,
National Security Agency

1. [redacted] of NSA called me on 28 July to discuss the STAT
"2% over ceiling" provision which was added as a floor amendment to the Senate version of the Fiscal Year 1983 Intelligence Authorization Bill. [redacted] made the following points: STAT STAT

-- The provision authorizes the DCI to employ additional civilian personnel in the Central Intelligence Agency. NSA interpreted section 601 of the Fiscal Year 1982 Department of Defense Authorization Act to preclude the Secretary of Defense from using his "2% over ceiling" authority to employ additional personnel in NSA (see attached excerpt from P.L. 97-86).

-- The provision had come up during a conversation between the Director, NSA and the DDCI, and NSA was considering whether it might want to make a pitch to the Intelligence Authorization Bill conferees to expand the Senate-passed provision so as to make it applicable to NSA. [redacted] said that he wanted to check our view on this before proceeding. STAT

2. I told [redacted] that the Agency Comptroller was the expert STAT
on this provision, and that I would discuss the matter with him and get back to [redacted] STAT

3. After discussing [redacted] call with the Comptroller, STAT
I told [redacted] that there appeared to be no objection to an NSA STAT
approach to the conferees on this point. [redacted] said that he was STAT
still trying to determine whether NSA actually had a personnel ceiling problem serious enough to warrant making such an approach.

[redacted] STAT

Distribution:

1-SA/DDCI
1-Comptroller
1-General Counsel

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Uniform Code of Military Justice. The Secretary of Defense shall submit the results of such study to the Congress not later than February 1, 1982.

EXTENSION OF AUTHORITY FOR SELECTED RESERVE AFFILIATION BONUS

SEC. 505. Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1985".

TITLE VI—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTHS

SEC. 601. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1982, of 1,024,500.

(b)(1) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for such allocation. Report to Congress.

(2)(A) Of the number of civilian personnel allocated to the Department of the Army pursuant to paragraph (1), the Secretary of the Army shall use not less than 16,800 of such number to relieve military personnel for the performance of other duties. Not more than 5,000 of such 16,800 personnel may be indirect hires.

(B) The Secretary of the Army shall submit a written report to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1982, specifying how the 16,800 civilian personnel referred to in subparagraph (A) are to be utilized. The Secretary shall also indicate in such report (i) the extent to which such civilian personnel will be used to fill positions currently held by noncommissioned officers, and (ii) the number of such noncommissioned officers who will be assigned to combat units by virtue of the use of such civilian personnel in such positions. Report to congressional committees.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end-strength authorized for such departments or Employment. Transfer of functions.

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agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial- and industrial-type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1982 in the budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

Notification to Congress.

REPEAL OF REQUIREMENT FOR REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES

SEC. 602. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 131 note), is amended—

(1) by striking out paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2) and by striking out "paragraphs (1) and (2)" in such paragraph and inserting in lieu thereof "paragraph (1)".

STUDENTS EMPLOYED IN RESEARCH AND DEVELOPMENT LABORATORIES

10 USC 2360.

SEC. 603. (a) Chapter 139 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2360. Research and development laboratories: contracts for services of university students

"(a) Subject to the availability of appropriations for such purpose, the Secretary of Defense may procure by contract under the authority of this section the temporary or intermittent services of students at institutions of higher learning for the purpose of providing technical support at defense research and development laboratories. Such contracts may be made directly with such students or with nonprofit organizations employing such students.

"(b) Students providing services pursuant to a contract made under subsection (a) shall be considered to be employees for the purposes of chapter 81 of title 5, relating to compensation for work injuries, and to be employees of the government for the purposes of chapter 171 of title 28, relating to tort claims. Such students who are not otherwise employed by the Federal Government shall not be considered to be Federal employees for any other purpose.

5 USC 8101 *et seq.*

28 USC 2671 *et seq.*

Regulations.

"(c) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall include definitions for the purposes of this section of the terms 'student', 'institution of higher learning', and 'nonprofit organization'."

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2360. Research and development laboratories: contracts for services of university students."

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